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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/814,584	04/01/2004	Ira Kay	44117-137	5857
7590 06/20/2006 MCDERMOTT, WILL & EMERY 600 13th Street, N.W. Washington, DC 20005-3096			EXAMINER HOLMAN, JOHN D	
			ART UNIT 3643	PAPER NUMBER

DATE MAILED: 06/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/814,584

Applicant(s)

KAY, IRA

Examiner

John D. Holman

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7, 9, 11, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Lin (US 6438888).

Regarding claim 1, Lin discloses a light assembly fixture used to attach accessories on pistols comprising of a housing (30, 40) with lateral members (35) being movably mounted to the housing (30, 40) and being movable between a retracted position and an extended position relative to the housing (40), and means for preventing longitudinal movement (32). The accessory (80) used in the fixture can be a flashlight, therefore, inherently comprising of a reflector having a lamp at one end and batteries for power the lamp through a switch. See figure 3.

Regarding claim 2, Lin discloses a light assembly comprising a housing (30, 40) having two sides, each one provided with a channel (329). The lateral members (64) comprise an inner planar face bounded by an upper edge and lower edge (not referenced). Lin also discloses a guide (55) planar to the housing with parallel flanges projecting outward (not referenced) and a longitudinal groove (62) to slidably engage the flange. See figure 5A, 5B, and 6.

Regarding claim 3, Lin discloses a light assembly comprising lateral members (35) provided with locking means (355, 329, 34) for either being in a retracted position or an extended position. See figure 3.

Regarding claim 4, Lin discloses a light assembly comprising a channel (329) that is shaped and sized to receive a lateral member (35, 355). See figure 3.

Regarding claim 5, Lin discloses a light assembly comprising a U-shaped channel (329) with a guiding member (34). See figure 3.

Regarding claim 6, Lin discloses a light assembly comprising a guide with a plurality of slots (55) with each lateral member (35) comprising a latch (335, 32) projecting inwardly with an upper and power portion for engaging in the slots. Lin also discloses the latch (32) attached to the lateral members (35) which are pivotal between an operative position and an inoperative position. See figure 3, 4.

Regarding claim 7, Lin discloses a light assembly comprising channels with a back face and sidewalls (329) shaped to receive one of the latch projections (32). See figure 3.

Regarding claim 9, Lin discloses a light assembly comprising a housing wherein the pre-defined shaped is cylindrical (40). See figure 3.

Regarding claim 11, Lin discloses a method for removably attaching a light assembly to a provided guide on a weapon comprising of a housing (30, 40) using a pair of lateral members (35) being movably mounted to the housing (30, 40) and being movable between a retracted position and an extended position relative to the housing (40). The lateral members (35) are extended and engaged into longitudinal grooves of

the guide (55) by sliding the assembly on the guide, moving the latches (335) in an operative position. See figures 3, 5A, and 5B.

Regarding claim 12, Lin discloses a method for removably attaching a light assembly to a provided guide on a weapon by moving the latches (335) in the inoperative position while sliding the lateral members (35) until they are in the retracted position, in which the lateral members are in the operative position. See figure 3, 5B.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lin (US 6438888) in view of Matthews et al (US 2005/0128741). Lin is discussed above.

Claim 8 differs from Lin's light assembly in calling for a push button switch to activate the light apparatus. Matthews discloses a flashlight apparatus with a switch button (34, 36). See figure 2. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Lin's use of a flashlight as an accessory in view of the teachings of Matthews to include a push button switch to activate the light apparatus.

Claim 10 differs from Lin's light assembly in calling for the lamp to be a LED assembly. Matthews discloses the use of an LED. See paragraph 21. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Lin's use of a flashlight as an accessory in view of the teachings of Matthews to include an LED as the light source for the apparatus to have the best suited lamp to provide efficiency over a wide range of powers and brightness.

Response to Arguments

Applicant's arguments filed 4/19/2006 have been fully considered but they are not persuasive. Amending claims 1 and 11 to include the "lateral members movably mounted to the housing and being movable between a retracted position and an extended position relative to the housing" does not overcome the art of record. Lin's lateral members are movably mounted to the housing and are movable between a retracted and extended position relative to the lower portion of the housing.

Regarding arguments to claim 2, the channel 329 is parallel to the housing and perpendicular to the lower portion of an inner planar face, the lower portion of 355.

Regarding arguments to claim 3, the lateral members are locked in place whether they are in a retracted position or extended position by the channel 329 and tab 355.

Regarding arguments to claim 6, the claim claims a plurality of slots and Lin discloses two, which is a plurality.

Regarding arguments to claim 9, even with the rack attached to Lin's assembly, it is still substantially cylindrical in a retracted or extended position.

Regarding arguments to claim 12, "sliding the light assembly on the guide" does not mean sliding the assembly in any certain direction. When attaching Lin's assembly to a weapon, the lateral members are held in a retracted position and slid up on to the guide.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John D. Holman whose telephone number is 571 272-2754. The examiner can normally be reached on Monday through Friday 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 571 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JDH


PETER M. POON
SUPERVISORY PATENT EXAMINER

6/15/06